TEJON RANCH
COMPANY

December 11, 2018

Via email (executiveofficer@bos.lacounty.gov)

Los Angeles County Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple Street Suite 383
Los Angeles, California 90012

Re: Centennial Specific Plan Project No. 02-232 – Applicant Responses to December 5, 2018 Letter to Board from California Air Resources Board, and to December 10, 2018 Letter to the Board from Lozeau Drury on Behalf of Laborers International Union of North America

Dear Honorable Board of Supervisors,

For the December 11, 2018 hearing during which the Los Angeles Board of Supervisors ("Board") will consider Centennial Specific Plan Project No. 02-232 ("Project"), the Tejon Ranch Company ("Applicant") would like to address two pieces of correspondence addressing the Project sent to the Board on December 5, 2018 and December 8, 2018. As such, enclosed please find the following Exhibits:

Exhibit 1 Response to December 5, 2018 California Air Resources Board Letter to the Board on Centennial EIR

Exhibit 2 Responses to December 10, 2018 Project-Related Letter to the Board of Supervisors from Lozeau Drury, On Behalf of Laborers International Union of North America

Thank you for your consideration.

Sincerely,

P.O. Box 1000 | 4436 Lebec Road
Tejon Ranch, CA 93243
661 248 3000 O | 661 248 3100 F
www.tejonranch.com

Exhibit 1 – Response to California Air Resources Board Letter to the Board on Centennial EIR dated December 5, 2018

The following responds to the California Air Resources Board (Commenter or CARB) letter dated December 5, 2018 and which provides comments on the Centennial EIR's greenhouse gas (GHG) analysis.

Commenter argues that the County's CEQA compliance for Centennial is flawed because, in Commenter's view, the Centennial EIR improperly relies on the state's Cap-and-Trade program as CEQA mitigation to reduce 96% of the Centennial Project's GHG emissions. As explained below, Commenter's claim is without merit because it is based on factual misrepresentations, misstatements of applicable law, and is expressly contradicted by CARB's own Statement of Reasons for the Cap-and-Trade Program prepared in accordance with Government Code §§ 11346.2(b) and 11346.9(a) (Statement of Reasons). Per CARB Resolution 11-32, which adopted Cap-and-Trade, the Statement of Reasons "presents the rationale and basis for" Cap-and-Trade.

The Centennial EIR's GHG Analysis Under Threshold 21-1

As held by the Supreme Court in *Center for Biological Diversity v. California Department of Fish and Wildlife*, one option available to lead agencies for determining the significance of a project's GHG impacts is to "assess … compliance with regulatory programs designed to reduce greenhouse gas emissions from particular," citing both CEQA Guidelines § 15064.4(b)(3) and CARB's Statement of Reasons. *See* (2015) 62 Cal.4th 204, 228-229 ("*Newhall*"). Subsequently, in *Association of Irritated Residents v. Kern County Board of Supervisor*s, the Court of Appeal held that CEQA Guidelines § 15064.4(b)(3) in fact directs lead agencies "to consider the project's compliance with the cap-and-trade program in assessing the significance of environmental impacts from the project's greenhouse gas emissions" *See* (2017) 17 Cal.App.5th 708, 742 ("*AIR*").

Consistent with *Newhall* and *AIR*, the Centennial EIR analyzes under Threshold 21-1 the extent to which the project complies with Cap-and-Trade and other regulatory programs for the reduction of GHG emissions, including but not limited to: SB 375 and SCAG's Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS); Title 24 Building Energy Efficiency Standards; Renewable Portfolio Standards; Los Angeles County Green Building Standards Code; State Model Water Efficient Landscape Ordinance; Low Carbon Fuel Standards; Advanced Clean Cars Program; AB 341 Solid Waste Diversion Requirements. *See* Centennial EIR at 5.21-48 through 5.21-72. The Centennial EIR concludes that the project will comply with such regulatory programs and that its GHG emissions could therefore be considered less than significant under Threshold 21-1. *See id.* at 5.21-86. However, the Centennial EIR conservatively concludes that this cumulative impact will be significant and unavoidable because the County has no jurisdictional control or responsibility for GHG reductions in other parts of California, and it has no jurisdiction to enforce statewide implementation of all GHG-reducing regulatory programs with which the Project must comply. *See id*.

Following publication of the draft Centennial EIR, a new version of the CalEEMod air quality modeling software was released and the 2019 Title 24 Building Energy Efficiency Standards were adopted. In light of these developments, and in order to clarify the Centennial EIR's GHG analysis, the County prepared the *Updated Greenhouse Gas Calculations for the Centennial Project Final Environmental Impact Report* (Updated GHG Report). The Updated GHG Report compares the quantified Centennial GHG emissions disclosed in the draft Centennial EIR with updated GHG emission calculations that take into account (i) emission estimates calculated in accordance with the new version of CalEEMod, (ii) updated information regarding electric vehicle (EV) adoption rates, (iii) updated Centennial energy and water use emissions based on new Title 24 standards; (iv) revised solid waste GHG emissions based on landfill diversion requirements, and (v) estimated internal and external vehicle trip reductions attributable to Centennial's single occupancy vehicle (SOV) mitigation measures, which were not quantified in the draft Centennial EIR. In addition, Table 3 of the Updated GHG Report evaluates the extent to which Centennial GHG emissions are covered by Cap-and-Trade because they are generated by the consumption of fossil fuels sourced from upstream fuel suppliers that are subject to Cap-and-Trade. As shown on Table 3, Centennial is estimated to generate 157,642 MTCO2E of GHG emission per year. Of these emissions, 150,808 MTCO2E are generated by Centennial's consumption of fossil fuels sourced from fuel suppliers that are subject to Cap-and-Trade (i.e., electricity, natural gas, transportation fuels).

Commenter's Argument That None of Centennial's GHG Emissions are Covered by Cap-and-Trade Is Inconsistent with Controlling Case Law and CARB's Statement of Reasons

At the heart of the Comment Letter is the inaccurate assertion that the Cap-and-Trade program is not intended to mitigation emissions from land use projects. This argument, however, is directly (and quite clearly) contradicted by both controlling case law and CARB's Statement of Reasons, as explained below.

In *AIR*, the Court of Appeal held that CEQA Guidelines § 15064.4(b)(3) authorizes a lead agency "to determine a project's greenhouse gas emissions will have a less than significant effect on the environment based on the project's compliance with the cap-and-trade program." *See* (2017) 17 Cal.App.5th at 742. At issue in *AIR*, was an EIR prepared for an oil refinery modification project (Refinery EIR). *Id*. at 717. The Refinery EIR quantified project emissions by dividing them into three categories: (1) construction activities; (2) "permitted sources;" and (3) "non-permitted sources." *Id.* at 736, 740. The permitted sources included direct emissions from the refinery's stationary operations. *Id.* at 736. The non-permitted sources "include[d] mobile sources," as well as "indirect greenhouse gas emissions from electrical power use." *Id.* After quantifying the refinery's total emissions, the Refinery EIR took credit for GHG emission reductions associated with "offsets of the permitted source greenhouse gas increases through cap-and-trade," as well as for "offsets of electric utility greenhouse gas emission increases through cap-and-trade." *Id*. Upon review, the Court upheld the Refinery EIR's GHG analysis and its reliance on GHG reductions associated with the surrender of Cap-and-Trade compliance instruments. *Id.* 742-743. On January 31, 2018, the California Supreme Court declined to review the Court of Appeal's decision in *AIR*. Accordingly, *AIR* is settled law.

Commenter argues that *AIR* does not apply to land use projects because land use projects like Centennial and WLC are not Cap-and-Trade covered entities, whereas the refinery at issue in *AIR* is a covered entity. *See* CARB letter at 10. While it is true that the *AIR* refinery is a covered entity under Cap-and-Trade, this was not a limiting factor in the *AIR* decision. To the contrary, the *AIR* court sanctioned the Refinery EIR's reliance on GHG reductions associated with Cap-and-Trade compliance by both the refinery (a Cap-and-Trade covered entity) and the refinery's upstream fuel supplier, PG&E (also a covered entity). *See* (2017) 17 Cal.App.5th at 735-736, 740 ("[T]he EIR states Pacific Gas and Electric will be required to reduce greenhouse gas emissions at its facilities or to surrender compliance instruments to counterbalance the emission increases associated with increased power usage. … Compliance [with Cap-and-Trade] was a factor to be considered and, in the circumstances presented, is part of the substantial evidence supporting the finding that the impact of the [refinery's total] emissions was less than significant.") Since the holding in *AIR* extends to Cap-and-Trade compliance by a project's upstream fuel suppliers, any argument that *AIR* does not apply in this case merely because Centennial is not itself a Cap-and-Trade covered entity is insufficient. To the contrary, like the refinery in *AIR*, Centennial's upstream fuel suppliers are Cap-and-Trade covered entities, a fact undisputed by Commenter. There is no logical reason why, under *AIR*, the Refinery EIR can legitimately take credit for Cap-and-Trade compliance by the refinery's upstream fuel suppliers, but Centennial cannot. Accordingly, *AIR* is controlling law and the Centennial EIR's reliance on such law is appropriate.

CARB argues that local land use projects cannot rely on CEQA Guidelines §15064.4(b)(3) with respect to Cap-and-Trade without substantial evidence demonstrating a rational connection between such projects and Cap-and-Trade. *See* CARB letter at 9. Setting aside the fact that this argument attempts to read into CEQA Guidelines §15064.4(b)(3) an evidentiary standard that is absent from the guideline text,[1] one need only look to CARB's Statement of Reasons for substantial evidence that GHG emissions caused by a local project's consumption of upstream fuel sources are in fact covered by Cap-and-Trade, as recognized by the *AIR* court. Indeed, the Statement of Reasons explains in unambiguous terms that Cap-and Trade covers fossil fuel consumption by residential and commercial projects, as follows:

> To cover the emissions from transportation fuel combustion and that of other fuels by residential, commercial, and small industrial sources, staff proposes to regulate fuel suppliers based on the quantities of fuel consumed by their customers. … Fuel suppliers are responsible for the emissions resulting from the fuel they supply. In this way, a fuel supplier is acting on behalf of its customers who are emitting the GHGs. … Suppliers of transportation fuels will have a compliance obligation for the combustion of emissions from fuel that they sell, distribute, or otherwise transfer for consumption in California. … [B]ecause transportation fuels and use of natural gas by residential and commercial users is a significant portion of California's overall GHG emissions,

[1] CARB has no legal authority to amend the CEQA Guidelines. Per Public Resources Code § 21083(f), the CEQA Guidelines may only be amended by the Secretary of Resources following compliance with the California Administrative Procedure Act.

> the emissions from these sources are covered indirectly through the inclusion of fuel distributers [in the Cap and Trade program]."[2]

As Statement of Reasons makes clear, CARB's duplicitous and unfounded claim that the Cap-and-Trade program was never intended to cover emissions from local land use projects is untenable in light of Cap-and-Trade's clear administrative record proving otherwise.

CARB furthers this artifice by arguing that, if local projects like Centennial and WLC are permitted to rely on Cap-and-Trade reductions, then "more and more of our state's carbon 'cap' would be taken up by increasing transportation emissions." *See* CARB letter at 8. As a result, CARB argues, there "will be no clear incentive to alter this pattern" because local projects "do not receive a price signal from Cap-and-Trade." *Id*. at 8, 9. This argument, however, falls apart on review of CARB's Statement of Reasons:

> We believe that cap-and-trade's market-based approach is the most cost-effective and practical approach to lower emissions throughout most of California's economy. … *Placing a price signal on transportation fuels will reduce the consumption of transportation fuel*; driving investment in newer, more fuel-efficient vehicles. … [C]ap-and-trade is not well-suited to address emissions from millions of distributed point sources such as automobiles. However, our approach is not to apply cap-and-trade to the end user (vehicle drivers), but to the fuel suppliers, who will be responsible for fuel that is combusted. By taking this "upstream" approach in the regulation, we avoid the challenges of applying [Cap-and-Trade] to millions of "downstream" users.[3]

As this quote demonstrates, Cap-and-Trade was specifically designed to ensure, in CARB's words, that "carbon costs are passed through" from upstream suppliers to downstream customers so that "these users will face carbon costs on all direct and indirect emissions. … By implementing a market-based program, certain commodities will have a carbon price to incent changes in behavior to reduce associated GHG emissions."[4] Given this administrative record, CARB cannot prop up its clumsy attempt to avoid application of the Court of Appeal's holding in *AIR* by now claiming that Cap-and-Trade was not designed to cover emissions generated by the downstream combustion of fossil fuels supplied in California.

Finally, CARB incorrectly claims that the Updated GHG Report "fails to account for, or even consider: the fact that Cap-and-Trade Program currently extends to 2030 in its current form." This claim is false. The Updated GHG Report at pages 10 through 11 expressly acknowledges that the state has extended Cap-and-Trade through 2030, and further explains that (1) the Attorney General represents to California courts in ongoing litigation that CARB

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[2] CARB. October 28, 2010. Staff Report: *Initial Statement of Reasons for the Proposed Regulation to Implement the California Cap-and-Trade Program Part 1*, *Vol. 1*, pp. II-10, II-20, II-21, 11-53: https://www.arb.ca.gov/regact/2010/capandtrade10/capisor.pdf ("ISOR") (incorporated by reference by: CARB. October 2011. California's Cap-And-Trade Program Final Statement of Reasons, p. 2: https://www.arb.ca.gov/regact/2010/capandtrade10/fsor.pdf) ("FSOR") (the ISOR and FSOR are collectively referred to herein as the "Statement of Reasons").

[3] FSOR at 177-178.

[4] *Id*. at 655.

has the independent authority under AB 32 to continue implementation of Cap-and-Trade, (2) that Cap-and-Trade is included in the Scoping Plan without a termination date, (3) and that the Scoping Plan sets forth measures, including Cap-and-Trade, to reduce GHG emissions to achieve the state's reduction targets for 2030 and 2050. Based on CARB's expert opinion that specific statutory authorization for a Cap-and-Trade program is not required, the inclusion of a Cap-and-Trade program through 2050 in the 2017 Scoping Plan, and other relevant climate laws, regulations, and policies, there is substantial evidence of the Cap-and-Trade program's continued existence beyond 2030.

As the CARB letter acknowledges, Cap-and-Trade is not the only state regulatory program that addresses GHG emissions associated with transportation. As CARB points out, SB 375 also targets transportation GHG emissions by coordinating transportation and land use plans. As explained in detail in the EIR, the Project is fully consistent with the SCAG's SB 237 sustainable communities strategy, referred to in the EIR as the RTP/SCS, and its CARB-approved development pattern designed to achieve the SB 375's GHG reduction goals for the SCAG region. The RTP/SCS preferred development pattern targets the Project site for significant growth, relying on socioeconomic projections at the level of individually mapped Traffic Analysis Zones (TAZs). In fact, SCAG's TAZ maps project that over 22,000 new households will be constructed in the Project area by 2035. The RTP/SCS thus anticipates development of the Project site at densities consistent with the *Centennial Specific Plan.* In addition, the RTP/SCS identifies the Northwest SR-138 Improvement Project (which is partially located within the Project's boundary and was recently approved by Caltrans) as a major regional highway project needed to improve regional access to opportunities such as jobs, education, recreation and healthcare. Thus the EIR fully explains how the Project is consistent with the RTP/SCS recommended development pattern and transportation programs for achieving the region's SB 375 regional GHG reduction target. CARB's argument that SB 375 would be redundant if transportation emissions are covered by Cap-and-Trade is unavailing. As the CARB letter notes, well designed local projects, such as those that are consistent with SB 237 sustainable communities plans, "compliment Cap-and-Trade and better achieves California's climate goals." CARB letter at 9.

Commenter's Claim that the Centennial EIR Fails to Identify All Feasible GHG Mitigation is False

Commenter inaccurately claims that the Centennial EIR fails to describe all feasible mitigation measures. See CARB letter at 13. This claim is false. As demonstrated by the CEQA Findings of Fact included as Attachment O to the Board of Supervisor's December 11, 2018 hearing package, the Centennial EIR identifies no less than 48 different CEQA mitigation measures to reduce Centennial's GHG emissions to the extent feasible. These measures address a variety of GHG emission sources, including, but not limited to, transportation fuel consumption, electricity consumption, solid waste diversion, vegetation conversion, wastewater generation and treatment, water use, and natural gas consumption. The project Development Agreement further obligates Centennial to achieve a "net zero carbon for the electric sector" performance standard for all public and private project facilities. Per this "net zero electricity" standard, Centennial must ensure that the carbon emissions created to produce electricity consumed by Centennial is offset with an equivalent amount of carbon emission reductions that result from quantified greenhouse gas emission reductions. Thus,

Commenter's claim that the Centennial EIR "does not provide mitigation" for Centennial's GHG emission is factually inaccurate and should be disregarded.

Commenter further claims (falsely) that it is the Applicant's view that the Centennial EIR improperly fails to include "a section describing and analyzing and describing the feasibility of mitigation measures to reduce the Project's GHG emissions, including additional mitigation measures recommended in CARB's Scoping Plan. *See* CARB letter at 12, 13. In point of fact, EIR Chapter 5.21, Climate Change, and Response to Comment F.8-204, considers in detail GHG mitigation measures recommended in the Scoping Plan, in addition to all GHG mitigation measures recommended by the San Joaquin Valley Air Pollution Control District, the Bay Area Air Quality Management District, the Sacramento Metropolitan Air Quality Management District, the San Luis Obispo County Air Pollution Control District, the California Air Pollution Control Officers' Association, and the California Attorney General's Office.

In its letter, CARB tries to have it both ways by simultaneously arguing, on the one hand, that the Scoping Plan is merely an advisory document that has no regulatory effect but, on the other hand, also arguing that the Centennial EIR somehow violates CEQA for failing to comply with this purportedly non-binding document. See, e.g., CARB letter at 12. Specifically, CARB complains that the Centennial EIR is noncompliant with CEQA for failing to considerate a mitigation measure requiring the project to achieve a zero net additional GHG emissions standard (even though CARB also correctly states that such a standard is not mandatory under CEQA). *See* CARB letter at 12, 13. CARB's duplicitous claims notwithstanding, as discussed in Draft EIR Section 5.21.2, Relevant Plans, Policies, and Regulations, and response to Comment F.8-79, the EIR does co in fact consider the feasibility of a net zero standard for Centennial. As explained in the EIR, it has been California policy that all new residential buildings will be zero net energy (ZNE) by 2020 and new commercial buildings will be ZNE by 2030, as described in the 2008 California Public Utilities Commission (CPUC) long-term energy efficiency strategic plan. In 2013, the California Energy Commission (CEC), in coordination with the CPUC, commenced a process to update the California Building Energy Efficiency Standards (Title 24) and, in 2016, the CEC updated the Title 24 Building Energy Efficiency Standards to establish building design and construction requirements that move closer to achieving California's ZNE goals, with the next update scheduled for 2019. As part of 2019 Building Energy Efficiency Standards rulemaking process, CEC staff has currently determined that ZNE cannot be achieved by 2020 within the confines of existing net energy metering and life cycle costing rules.[5, 6] CEC staff has also determined that the State's ZNE goals cannot be achieved until California develops and implements electric grid harmonization strategies that maximize self-utilization of photovoltaic array output and

[5] California Energy Commission, 2019 Building Energy Efficiency Standards Pre Rulemaking Presentation - Proposed 2019 Building Energy Efficiency Standards ZNE Strategy (Aug. 24, 2017), http://docketpublic.energy.ca.gov/PublicDocuments/17-BSTD-01/TN220876_20170824T105443_82217_ZNE_Strategy_Presentation.pdf.

[6] Electric Power Research Institute (Jan. 2017) – Grid Integration of Zero Net Energy Communities, California Energy Commission Docket Number 17 –BSTD-02: http://docketpublic.energy.ca.gov/PublicDocuments/17-BSTD-02/TN223207_20180417T082650_Final_Project_Report_Grid_Integration_of_Zero_Net_Energy_Commun.pdf.

minimize renewable energy exports back to the grid, such as commercially viable battery storage, demand response, thermal storage technologies.[7,8] Even the CARB letter itself admits that "achieving net zero GHG emissions may not be feasible," as expressly acknowledged by the Scoping Plan. See CARB letter at 14.

The Project Complies with Scoping Plan's Recommended GHG Efficiency Target

Despite its claim that the Scoping Plan is a non-regulatory, advisory document that does not impose any mandatory CEQA requirements, CARB nevertheless faults the Updated GHG Report's analysis of Centennial's consistency with the Scoping Plan's recommended GHG efficiency target. As explained in section 5 the Updated GHG Report, the Project's GHG efficiency of 1.93 MTCO2e/yr is below the Scoping Plan's recommended GHG efficiency target for 2030 (i.e., 6 MTCO2e/yr) and 2050 (i.e., 2 MTCO2e/yr). The CARB letter asserts that the Update GHG Report's calculation is "in error" because it was derived using a service population metric that takes into account Project residents, non-resident employees, and visitors. See CARB letter at 11. The CARB claims that, to be consistent with the Scoping Plan, the Project's efficiency target should be calculated on a per capita basis, not on a service population basis, and claims that, on a per capita basis, the Project would have a GHG efficiency of 2.7, which is below the Specific Plan's 2030 target but somewhat exceeds its 2050 target. See CARB letter at 11, 12. This claim in unavailing, as explained below.

While the Scoping Plan does recommends statewide GHG targets of no more than 6 MTCO2e/yr per capita by 2030, and 2 MTCO2/3 per capita by 2050, it also explains that these goals are appropriate at the city or county level "but not for individual projects because they include all emission sectors in the state." See 2017 Scoping Plan at 99 n. 241. This makes sense because applying a "per capita" target to all local projects would severely penalize all local projects that are not 100% residential, especially the kind of transit oriented mixed-use infill projects that are critical to achieving California's climate goals. As shown in the CARB letter, when only considering Centennial's residential population, the Project's GHG efficiency is 2.7 MTCO2e/yr. However, Centennial is not a 100% residential project, but rather a smart growth mixed-use community. Accordingly, it is appropriate for the Updated GHG Report to consider the Project's GHG efficiency on a service population basis that takes into account Project employees and visitors and not just its residents. As the Scoping makes clear, its "per capita" targets are not appropriate for individual projects. Indeed, relying simply on a "per capita" target that only takes into account a project's

[7] *Ibid*.

[8] Electric Power Research Institute (Jan. 2017) – Grid Integration of Zero Net Energy Communities, California Energy Commission Docket Number 17 –BSTD-02: http://docketpublic.energy.ca.gov/PublicDocuments/17-BSTD-02/TN223207_20180417T082650_Final_Project_Report_Grid_Integration_of_Zero_Net_Energy_Commun.pdf.

residents, but not its workers or visitors, in contrary to CEQA mandate that an EIR should consider the "whole of the project."

Conclusion

Given the administrative history of the Cap-and-Trade program, Commenter's claim that Cap-and-Trade was never designed to cover GHG emissions generated by a land use project's consumption of fossil fuels is without a merit and should be rejected by the Board of Supervisors. As explained above, the Centennial EIR's analysis of the relationship between the project and Cap-and-Trade was not only proper, it has been sanctioned by controlling case law. As explained in the Updated GHG Report, approximately 96% of Centennial emissions are attributable to the consumption of fossil fuels sourced from upstream fuel suppliers that are subject to Cap-and-Trade. In accordance with *Newhall*, *AIR* and CEQA Guidelines § 15064.4(b)(3), it is appropriate for the Centennial EIR to adjust the project's GHG emissions to reflect the use of compliance instruments under the Cap-and-Trade program by the project's upstream fuel suppliers, especially in light of the Statement of Reasons' plain language.

Exhibit 2 - Applicant Responses to December 10, 2018 Project-Related Letter to the Board of Supervisors from Lozeau Drury, On Behalf of Laborers International Union of North America

The below responds to the December 10, 2018 letter from Lozeau Drury to the Los Angeles County Board of Supervisors addressing the Centennial Specific Plan Project No 02-232 ("Project"), on behalf of the Laborers International Union of North America Local 300 ("Commenter"). The below addresses Commenter's substantive comments in its "Discussion" section, in order in which they appear in the letter, using Commenter's headings for ease of review.

Response to "The EIR Fails to Adequately Analyze Valley Fever"

Commenter notes that the EIR discloses the potential for workers and residents to encounter Valley Fever spores on the Project site. In addition to the excerpt that Commenter cites, the EIR extensively discusses potential Project impacts related to Valley Fever, including with regard to the condition, potential for Valley Fever spores to be found in soils in the Antelope Valley, the effects of contracting Valley Fever, and risks from possible exposure to both construction workers and Project residents. See Draft EIR, Section 5.3, Hazards and Fire Safety, pages 5.3-13 to -14 and -17 to-19, Section 5.11, Air Resources, pages 5.11-28 and -29, and -64 through -67; Final EIR, responses to Comment F.3-29 through F.3-32, F.3A-5, F.3A-38 through F.3A-45, F.3A-68, F.3A-69, and G.13-1.

The factual disease information Commenter cites from the Center for Disease Control and the California Department of Public Health is acknowledged, and is consistent with discussion in the EIR.

Commenter asserts that the Project mitigation measures to address Valley Fever are inadequate. The Applicant disagrees and notes that the County has thoroughly and adequately identified feasible mitigation measures to ensure less than significant impacts with regard to Valley Fever, including as revised in the Final and Consolidated Final EIR. First, Commenter alleges that PDF 3-1 (which corresponds to MM 3-3) is inadequate because it does not provide the actual education materials that will be distributed to purchasers and tenants about reducing potential exposure to Valley Fever spores. However, CEQA does not require that such materials be included in the EIR at this time – the measures to be identified are not Project-implemented mitigation, but rather are recommendations for Project residents and tenants – the Project imposes other, adequate mitigation that will be implemented by the Project Applicant.

Commenter next asserts that MM 3-2 is inadequate because it does not include training requirements. Since original publication of the EIR, MM 3-2 has been supplemented to include specific training requirements. Commenter is directed to the current MMRP. Commenter also asserts that MM 3-2 is deficient because it encourages the employment of workers from areas to which Valley Fever is endemic, and arguing this unconstitutionally "limits travel." The Applicant notes that this is merely one component of a suite of mitigation measures, and is not a prohibition on other employees. Commenter is further directed to page C-7 of the MMRP, which does in fact require that masks or half-faced respirators are equipped with a minimum N-95 protection factor and meeting CALOSHA regulations.

Commenter notes that its expert recommends further mitigation, but provides no support for the assertion that these are required to reduce impacts to a less than significant level. The County has appropriately and thoroughly analyzed Project-related Valley Fever impacts, and identified feasible mitigation to reduce impacts to a less than significant level. Commenter is further directed to review

the current version of the MMRP, which includes extensive mitigation requirements, and which Commenter appears not to have reviewed. No further response is needed.

Response to "The EIR Fails to Analyze Indoor Air Quality Impacts"

Commenter asserts that the EIR is deficient because it does not analyze formaldehyde in building materials. Formaldehyde is a common indoor pollutant found in virtually all homes and building, Commenters' Exhibit A presents information regarding potential formaldehyde exposure from building materials, focusing on 2009 studies of concentrations in homes, and asserting that Project impact analysis and mitigation are required to address potential formaldehyde exposure because residential projects "typically will be built using typical materials and construction methods…". Exhibit A also asserts that construction with materials that comply with requirements have been shown to be insufficient to reduce risks to an acceptable level.

However, Commenter's expert cites to outdated and incomplete requirements, and the Project complies with many of the recommendations in Commenter's letter, including compliance with California 2016 Building Energy Efficiency Standards (see Exhibit A, page 13.) Commenter's expert likewise does not acknowledge that per the Project Specific Plan's Green Development Plan, the Project will satisfy all mandatory CalGreen Code requirements, and all residential and nonresidential development within the Specific Plan shall be required to satisfy the required measures necessary to achieve 2016 CALGreen Tier 1 (voluntary measures). (Appendix 2-A to the Specific Plan, page 1.) The Project is further required to use formaldehyde-free insulation. (See Final EIR, Response to Comment F.8-204, at Final EIR page 2-1034.) The Project will comply with mandatory regulatory requirements, such as the following:

- The Composite Wood Products Regulation is a California Air Resources Board (CARB) regulation that reduces public exposure to formaldehyde through the establishment of strict emission performance standards on particleboard, medium density fiberboard and hardwood plywood (collectively known as composite wood products). The regulation, adopted in 2007, established two phases of emissions standards: an initial Phase I, and later, a more stringent Phase 2 that requires all finished goods, such as flooring, destined for sale or use in California to be made using complying composite wood products. As of January, 2014 only Phase 2 products are legal for sale in California. On December 12, 2016, EPA published in the Federal Register a final rule to reduce exposure to formaldehyde emissions from certain wood products produced domestically or imported into the United States. EPA worked with the California Air Resources Board (CARB) to help ensure the final national rule was consistent with California's requirements for similar composite wood products.

- The California Department of Public Health's (CDPH) Standard Method for VOC Emissions Testing and Evaluation(California Section 01350). This method provides the core emission limits for formaldehyde required to be met in the California Green Building Standards Code.

- California Green Building Standards Code. The Green Building Standards Code includes mandatory and voluntary measures for some building materials, including formaldehyde emissions limits.

Commenter has not produced any specific evidence that the Project would be likely to cause significant impacts related to formaldehyde in building materials, and analysis of such remote potential in the EIR is not required.